

FILED

April 25, 2023

Clerk, U.S. Bankruptcy Court
Middle District of Pennsylvania
Harrisburg

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

In Re: Leticia R. Couttien,	:	
Debtor/Movant/Appellee	:	Case No: 5:14-bk-02262
	:	
Hal H. Harris & Terrence A/ Colbert,	:	Chapter 7
Respondents/Appellants	:	

**MOTION FOR COURT TO GRANT RESPONDENTS' MOTION FOR EXTENSION OF
TIME TO FILE NOTICE OF APPEAL DUE TO DEBTOR/MOVANT FAILURE TO
FILE TIMELY OBJECTION.**

NOW COMES Hal H. Harris ("Harris") and Terrence A. Colbert ("Colbert"), collectively referred to as "Respondents" who file this *Motion For Court To Grant Respondents' Motion For Extension Of Time To File Notice Of Appeal*, and in support thereof avers as follows:

1. On Monday, March 20th, 2023, Respondent Hal H. Harris, timely filed Respondents' *Motion For Extension Of Time To File Notice Of Appeal* ("The Motion") (Doc 152) of This Court ORDER date March 1st, 2022, and Respondents' Notice Of Appeal and Statement of Election (Doc 153) in-person/by hand, at This Court's courthouse in Wilke Barrie, Pennsylvania. Respondent/Appellant Hal H. Harris also, simultaneously, paid the required appeal filing fee of two hundred and ninety-eight dollars (\$298), to This Court.
2. Thereafter, on Monday, March 20th, 2023, Respondent Hal H. Harris went to the nearby post office in Wilkes Barrie, PA and served a true copy of The Motion on Leticia R. Couttien the Movant in the above captioned case, by First Class Mail via the United States Postal Service to Debtor/Movant's last known address at 104 Condor Drive, Unit #4, Tamiment, PA 18371.
3. **Exhibit 1** attached hereto is a true copy of the Certificate Of Mailing (U.S. Postal Form 3817) that bears a U.S. Postal Service date stamp thereon and postal receipt for the 1) envelope with first class postage and 2) certificate of mailing that documents that The Motion was mailed to Movant on March 20th, 2023 to the address noted in paragraph 2 above.
4. Exhibit 2 attached hereto is a copy of the receipt the Bankruptcy Court in Wilkes Barrie, PA provided to Respondent Harris when he paid the Appeal Filing Fee.
5. This Court's ORDER dated March 21st, 2023 (Doc 154) clearly stated:

*"Any responses [Objections] to the Motion, Doc. 152, must be filed within 14 days,
on or before April 4, 2023."*

6. Despite the clear and unequivocal ORDER of This Court, Movant utterly failed to file a timely response to The Motion.
7. As a strong showing that Movant was aware of and believed This Court would grant The Motion, Movant took no action and did not move to have either of the two (2) State Court cases, involving the Parties in This Case, relisted despite the fact that This Court's ORDER dated March 1st, 2023, which was not timely served on Respondents, which Respondents seek to appeal, lifted the Stay this Court had placed/issued on both State Court cases.
8. Respondents contend Movant's failure to timely file a response/objection to The Motion constitutes Movant's implied consent and obligates This Court to grant The Motion. The latter is especially true since Movant's disregarded This Court's ORDER to file a response to The Motion by April 14th, 2023.
9. This Court's Docket reflects that Movant, signed up for and has been receiving notices and Orders from This Court via email. Thus, Movant was acutely aware that a response to The Motion was required to be filed by April 14th, 2023.
10. This Court's Docket also reflects that Movant never filed a motion/application for an extension of time to file a response to The Motion.
11. Respondents assert that This Court has proper jurisdiction to Grant The Motion and permit Appellants an extension of time to file their Notice Of Appeal And Statement Of Election, which Respondents filed, out of an abundance of caution when The Motion was filed, due to Movant's utter failure to respond to The Motion as Ordered by This Court, which Respondents contend constitutes Movant's Implied Consent.
12. The U.S. Supreme Court has handed down various rulings that confirms a Bankruptcy Court's authority to grant motions when the opposing party fails to respond to the motion based on Implied Consent. U.S. Supreme Court also held that Bankruptcy Courts are even permitted to dismiss cases when the opposing party failed to respond to a motion after being noticed. See *Wellness Intern. Network, Ltd. v. Sharif*, 135 S. Ct. 1932 (Supreme Court 2015) and string of cases that flowed the *Wellness* decision including *Kravitz v. Deacons (In re Advance Watch Co.)*, 587 B.R. 598 (Bankr. S.D.N.Y. 2018); *Campbell v. Carruthers (In re Campbell)*, 553 B.R. 448 (Bankr. M.D. Ala. 2016); and *Hopkins v. M&A Ventures (In re Hoku Corp.)*, Nos. 13-40838-JDP, 15-08043-JDP, 2015 Bankr. LEXIS 4172 (Bankr. D. Idaho Dec. 10, 2015).

13. **Exhibit 3** attached hereto is a true copy of the front of a stuffed envelope for the Pike County District Attorney clearly addressed to Shirley Kennedy, at 312 Keswick Avenue, Bushkill, PA 18324, that Respondent Harris does not know, that was misdelivered to Respondent Harris that Respondent Harris must now take to the local post office, because Ms. Kennedy seem to never be home, so it can be redelivered to the proper postal customer.
14. **Exhibit 4** attached hereto is the letter dated today, April 25th, 2023, that Respondent Harris penned to the Postmaster of the local post office, relating, in part, to the mis-delivery of mail.
15. Respondent Harris plans to deliver this subject misdelivered letter to the local post office after today's Bankruptcy Court Hearing.
16. Accordingly, a possible explanation for why Respondent Harris did not receive This Court's March 1st, 2023 Order is because the local post office, in Bushkill, PA, misdelivered the mail and it was sent through the entire delivery process again, AFTER it was returned to the post office since the postal indicia says no postage paid.
17. Beyond the above, Respondents diligently filed our 1) Statement Of Issues Complained Of On Appeal and (Doc 159) 2) Designation Of Record On Appeal (Doc 161), with This Court and served the same on Movant, within the same time frame they would have had to have been filed if Respondents would have received This Court's March 1st, 2023 Order in a timely manner and filed the Notice Of Appeal within ten (10) days thereof.
18. Accordingly, Respondents' action clearly demonstrate that Respondent had and have every intention of appealing This Court March 1, 2023 Order and complying with all the rules, regulation and time limits set by law.
19. Movant will not suffer any prejudice due to the short delay because the Notice Of Appeal was still filed within twenty (20) days of the deadline date, as permitted by the Bankruptcy Rules, and Movant will have ample opportunity to prepare and file an Appellee's Brief.
20. Respondent's certification and signature which are this Motion are on the next page

WHEREFORE Respondents respectfully request This Court issue an Order that permits the late filing of Appellant's Notice Of Appeal & Statement Of Elections and allows Respondents to exercise their right to appeal This Court's Order & Opinion dated March 1st, 2023 in District Court.

Respectfully submitted,

CERTIFICATION:

Appellant, Hal H. Harris, hereby certifies this Motion does not contain any confidential information and was filed using This Court's Electronic Document Submission System (EDSS) on Tuesday, April 25th, 2023 and a true copy of this Motion was served on Movant/Appellee on this same day, First Class U.S. Mail, and will also be served on Movant during today's April 25th, 2023 Evidentiary Hearing, via Zoom share function, if This Court permits such.

Dated: April 25th, 2023



Hal H. Harris
Respondent/Appellant, Pro, Se
315 Keswick Avenue
Bushkill, PA 18324
Tel: (570) 213-3648



WILKES BARRE
300 S MAIN ST
WILKES BARRE, PA 18701-9990
(800)275-8777

03/20/2023 04:40 PM

Product	Qty	Unit Price	Price
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US Flag #10 Env	1	\$0.80	\$0.80
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First-Class Mail® Letter	1		\$0.63
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Tamiment, PA 18371
Weight: 0 lb 0.50 oz
Estimated Delivery Date
Wed 03/22/2023
Cert of Mailing \$1.85
Affixed Postage -\$0.63
Affixed Amount: \$0.63

Total \$1.85

Grand Total: \$2.65

Credit Card Remit \$2.65

Card Name: AMEX
Account #: XXXXXXXXXX6600
Approval #: 630732
Transaction #: 473

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or scan this code with your mobile device.



or call 1-800-410-7420.



This Certificate of Mailing provides evidence that mail has been presented to USPS®.
This form may be used for domestic and international mail.

From: Hal M. Harris

315 Keswick Avenue
Bushkill, PA 18324

To: Leticia R. Gauthier

104 Condor Drive Unit #4
Tamiment, PA 18371

PS Form 3817, April 2007 PSN 7530-02-000-9065

Certificate of Mailing



RDC 99



18371



Exhibit 1

UFN: 419260-0782
Receipt #: 840-51700507-4 1729151-1
Clerk: 9

RECEIPT		No. 611455	
DATE	3-20-23	RECEIVED	
FROM	Hal Hawks	Wilkes Barre, PA	298 ⁰⁰
Two hundred ninety-eight ³ / ₁₀		DOLLARS	
<input type="radio"/> FOR RENT <input checked="" type="radio"/> FOR DEBT		MAR 21 2023 14-2263 (a. Hein)	
ACCT.		<input checked="" type="radio"/> CASH	Clerk, FROM TO US Bankruptcy Court BY <i>[Signature]</i>
PAID		<input type="radio"/> CHECK	
DUE		<input type="radio"/> MONEY ORDER	
		<input type="radio"/> CREDIT CARD	

Exhibit 2

PIKE COUNTY DISTRICT ATTORNEY
506 BROAD STREET
MILFORD, PIKE COUNTY, PA 18337



US POSTAGE



ZIP 18337 \$ 001.98⁰
02 4W
0000367874 APR 12 2023

04/11/2023

Shirley Kennedy
312 Keswicks Ave
BUSHKILL, PA 18324

TELEPHONE (717) 296-3444
FAX (717) 296-3559
EMAIL: office@pikepa.org

Exhibit

3

Hal H. Harris
315 Keswick Avenue
Bushkill, PA 18324
Email: hhh@harris3.com
Tel: (570) 213-3648

Exhibit 4

Monday April 25, 2023

BY HAND:

Postmaster/Postal Clerk
United States Post Office
911 Bushkill Falls Road
Tamiment, PA 18371

Re: Misdirected Mail:

Dear Postmaster,

This is a follow-up to a recent telephone conversation I had with the Postmaster for the post office at 911 Bushkill Falls Road, Tamiment, PA 18371, wherein we discussed mail I received from the U.S. Bankruptcy Court on March 18th, 2023 despite the Order inside the envelop being dated March 1st, 2023.

During our telephonic discussion;

1. I informed you that this **was not** the first piece of mail that was delivered to my mailbox more than five (5) days after the date it was purportedly mailed but did mark the first time I ever received mail two (2) weeks after it was purportedly mailed.
2. I informed you that I have experienced other instances where mail that was sent to me was never delivered to me, for reasons, to date, unknown to me.
3. In response to my questions of 1) is there is a way to determine when the subject mail piece was received by the U.S. Post Office and 2) when the post office processed the mail piece? You stated there is no way to track the mail piece if it was not sent with tracking such as certified mail, registered mail, priority mail or overnight mail. You also stated that you do not know why mail from a court was not sent certified and does not have a postal meter strip or postal cancellation date on it.
4. I explained that the envelope has an indicia on it that says, "Postage Paid" and you stated that may be the reason why it does not have a U.S. postal service cancelation on it.
5. I asked if I could file a formal complaint about receiving my mail so long after the date it was purportedly mailed, and you informed me that I would have to do so via the U.S. Post Office Inspector General ("IG") office. You also informed me that doing would be a waste of my time my because the complaint would only result in the IG's office sending an inquiry to you and me being informed that mail without tracking and/or a regular or postage meter stamp could not be tracked.
6. I informed you that the U.S. Postal Service carrier has misdirected my mail to other people's mailboxes and vice versa on multiple occasions. You politely apologized and stated you are working on reducing such occurrences.
7. We also discussed why certified letters are not delivered to my and/or other people doors my community and you explained that the postal carrier is limited to delivering certified mail to within thirty (30) feet of the mailbox the mail piece is delivered to. So, when mail is to be delivered to "a cluster" of mailboxes, such as in my private community, the carrier cannot deliver certified letters to peoples doors that are more than thirty (30) feet from the mailbox cluster and instead puts a notice in the mailbox that a certified mail piece can be picked up from the post office or redelivered to the mailbox if mail recipients signs a release for the certified mail. I stated that signing the release is too risky for me because the mail could them be misdirected and the sending party would use my

signature as proof that I received the mail piece when I had not. You agreed and stated that the certified Mail could always be picked up at the post office.

As it so happens, a large stuffed envelope/piece of mail from the Pike County District Attorney, that was clearly addressed to one of my neighbors, Ms. Shelly Kennedy, at 312 Keswick Avenue, Bushkill, PA 18324, whom I do not know, was misdelivered to my mailbox last week. As a neighborly courtesy, I tried to deliver the mail piece to my neighbor's townhouse on multiple occasions, but no one is ever home and/or answers the door. Due to the likely importance of the contents in the envelope, I even prepared the attached letter, to be signed by whomever accepted the envelope/mail piece from me, but that effort was to no avail.

I now tender the unopened envelop that was misdelivered to my mailbox, to you as Postmaster of my local Post Office so it can hopefully be properly delivered by the Post Office to my neighbor. I have attached a copy of the front of the misdirected mal piece to this letter or record keeping purposes.

The irony of this situation is that the envelope misdelivered to me is also from a court. I, probably unlike most people, tried to deliver the misdirected mail piece to my neighbor, instead of disposing of it or mailing it back to the post office. As applied to the mis-delivery of my mail from the Bankruptcy Court, which had "Postage Paid" on the envelop; if it was misdelivered and then placed in a mailbox it would go through the redelivery process since no stamp was needed. This redelivery process would take days and **may** explain why I received my mail nearly two (2) weeks after it was purportedly mailed.

Please write your name and sign below to confirm that you received the misdelivered mail piece from me on the above listed date.

Sincerely,


Hal H. Harris

Attachment:

Letter dated Saturday, April 23rd, 2024, from Hal H. Harris to Ms. Kelly Kennedy that is unsigned.

On this **25th Day of April 2023** the undersigned employee of the United States Postal Service at 911 Bushkill Falls Road, Tamiment, PA 18371, received an unopened envelope/mail piece addressed to Ms. Shelly Kennedy, at 312 Keswick Avenue, Bushkill, PA 18324 that was misdelivered and brought to his post office by Hal H. Harris.

Name:

Title:

Signature:

Hal H. Harris
315 Keswick Avenue
Bushkill, PA 18324
Email: hhh@harris3.com
Tel: (570) 213-3648

Saturday, April 22, 2023

BY HAND:

Ms. Shirley Kennedy
312 Keswick Avenue
Bushkill, PA 18324

Re: Misdelivered Mail

Dear Ms. Kennedy,

I am your neighbor in The Falls at Saw Creek ("The Falls"). My address is at **315** Keswick Avenue. On Monday, April 17th, 2023 a stuffed envelop from the Pike County District Attorney addressed to you was in my mailbox despite the fact that the envelope window clearly shows the following;

04/11/2023
Shirley Kennedy
312 Keswick Avenue
Bushkill, PA 18324

I have taken time to bring unopened envelope, that was erroneously delivered to my mailbox by the U.S. Post Service, to your home because it is the neighborly thing to do and because the envelop very likely contains very important and time sensitive information since it is from the Pike County District Attorney. I attempted to deliver the envelope to your home several times this week, however, no one was ever home.

I informed the local post office that the subject envelope/mail as mis-delivered to me. I was told that if my attempt to give it to a person at the address on the envelope failed then I should write "**delivered to the wrong address**" on the envelope and bring it to any post office when I next went to a post office or drop it in a mailbox. Since there are no mailboxes in The Falls or anywhere else that I know of, I have held the envelope in safe keeping until I could deliver it to your home or go to the post office.

Hopefully, delayed delivery of the envelope will not cause you any trouble. If you need documentation the envelope was misdelivered to my address, please contact the Postmaster at the local post office at 911 Bushkill Falls Road, Tamiment, PA 18371, as I will be sending a copy of this letter to her.

Please write and sign your name below to signify the date you received the envelope from me.

Sincerely,


Hal H. Harris

cc: Postmaster, U.S. Postal Service, 911 Bushkill Falls Road, Tamiment, PA 18371

Received by: _____ Signature: _____ Date: _____